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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,084	08/21/2006	Gerhard Loeckle	10191/3769	1434

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
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3664

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,084	Applicant(s) LOECKLE ET AL.	
	Examiner BRIAN J. BROADHEAD	Art Unit 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 7 through 13 are objected to because of the following informalities:
2. In claim 7, in the second to last line, "is" after "sensors" should be "are".
3. In claim 13, in the second to last line, "is" after "sensing means" should be "are".
4. Appropriate correction is required.

Specification

5. The disclosure is objected to because of the following informalities:
 6. On page 6, line 16, reference number "22", should be "23".
- Appropriate correction is required.

Drawings

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one vehicle sensor must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 7-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims have been amended to recite that only the crash sensors or sensing means are configured to generate the crash signal. This restriction is not disclosed in the originally filed application. The knock control system also detects "crash signatures" and under the broadest reasonable interpretation this signature would also be a crash signal. This results in the claims not making sense since the limitations seem to contradict themselves (the vehicle sensor also provides a crash signal but the claim says they can't). Claims 8 and 9 also require

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the vehicle sensor to be part of the vehicle dynamics control system, but there is never any enabling disclosure of what sensors are part of the dynamics control system and how an indication of a probable accident is determined from the sensors. The specification vague mentions skidding, but never goes into sufficient detail to enable one to make the invention without undue experimentation.

As per claim 13, claim element “vehicle sensing means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function

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and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

As per claim 13, claim element “control means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

As per claim 13, claim element “crash sensing means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written

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description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function.

For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

The following prior art rejections are made based on the examiner's best interpretation in light of the above ambiguities.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 7, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knueppel et al., 2004/0158376, in view of Baeuerle et al., DE-19827557 (machine translation provided) .

13. Knueppel et al. disclose a control unit(105) ; checking a crash signal generated by a crash sensor against a plausibility signal to trigger the restraint device as a function of the crash signal and the plausibility signal in paragraphs 71-78; and having additional plausibility checks from the crash sensors that can be used to trigger the restrain device in paragraphs 71-78. Knueppel et al. do not disclose a vehicle sensor outside the control unit, the first plausibility signal is received from the vehicle sensor, and only the plurality of crash sensors are configured to generate the crash signal. Baeuerle et al. teaches using a knock sensor system (vehicle sensor) to verify a crash. Knock sensors detect structure borne sound. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the knock sensor system of Baeuerle et al. in the invention of Knueppel et al because such modification combines only what is old and produces no unexpected results. In paragraph 24, Knueppel et al. makes it clear that any known sensor at any location in the vehicle can be used as part of their

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distributed sensing system. This would clearly lead to one of ordinary skill in the art at the time the invention was made to the suggestion of combining the two references.

14. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knueppel et al., 2004/0158376, in view of Baeuerle et al., DE-19827557, as applied to claims 7, and 10-13 above, and further in view of Hackenberg, 6421591.

15. Knueppel et al. and Baeuerle et al. disclose the limitations as set forth above including side impact sensors. They do not disclose the vehicle sensor is part of a vehicle dynamics control system or that the control unit is configured to plausibilize the crash signal of the side impact sensor in accordance with the plausibility signal from the vehicle dynamics control system. Hackenberg teaches on lines 16-21, and 55-60, on column 4, that it is desirable to connect the sensors of the dynamic control system to the restraint device control. Knueppel already discloses using plausibility checks from any sensors that are part of the distributed sensing network to check any other sensors (including side impact sensors). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the dynamic control sensor data of Hackenberg in the invention of Knueppel and Baeuerle because such modification would provide improved protection for occupants as disclosed by Hackenberg.

Response to Arguments

16. Applicant's arguments with respect to claims 7-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN J. BROADHEAD whose telephone number is (571)272-6957. The examiner can normally be reached on Monday through Thursday or Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian J. Broadhead/
Examiner, Art Unit 3664